

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
Michael A. DEAN)	Confirmation No.: 7703
)	
Serial No.: 09/594,100)	Group Art Unit: 2135
)	
Filed: June 14, 2000)	Examiner: Pich, Ponnoreay
)	
For: METHOD AND APPARATUS FOR)	
DYNAMIC MAPPING)	

REPLY BRIEF

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Honorable Sir:

This Reply Brief, submitted pursuant to 37 C.F.R. § 41.41 is responsive to the Examiner's Answer dated July 17, 2007 (hereinafter, "Examiner's Answer"). The Examiner's Answer responded to Appellant's Appeal Brief, filed March 26, 2007, appealing from the Office Action mailed August 24, 2006.

REBUTTAL TO EXAMINER'S RESPONSE TO ARGUMENT

The Examiner's response to Appellant's argument presented in the appeal brief appears on pages 16-21 of the Examiner's Answer. Appellant hereby replies to issues raised in the Examiner's Answer, generally in the order presented. The Examiner's Answer essentially limits its discussion to independent claim 1.

APPELLANT DOES INCLUDE DESTINATION ADDRESS WITH DATA PACKET DURING TRANSMISSION FROM FIRST TO SECOND ADDRESS TRANSLATOR

The Examiner's principal argument appears to be a new argument, not previously presented. The argument is that certain of Appellant's claim language, e.g., in claim 1, "transmitting the data packet WITH the second destination address from the first address translator to a second address translator via the network" (emphasis added) does not mean that the destination address is necessarily "included" with the data packet. (Examiner's Answer, pgs. 16-17) Appellant respectfully and emphatically disagrees for the following reasons.

At the bottom of page 16 of the Examiner's Answer it is admitted that it is clear that the data packet includes a first destination address in the first claim limitation of claim 1. As noted at the top of page 17 of the Examiner's Answer, claim 1 then recites "CHANGING the first destination address to a second destination address." (emphasis added) Appellant submits that "changing an address" means "changing an address" and nothing more. Therefore, nothing else about the recited packet has changed - the "included" address remains necessarily included.

An example of changing an address was given in the specification (see, pg. 8, line 28 - pg. 9, line 28). In that example, a destination address and port identifier is given as "4.22.161.5:1444" where the first four numbers (separated by periods) represent the IP address associated with server 150 (Appellant's Fig. 1) and the last number (separated from the others by a colon) represents a particular port on server 150. That address and port identifier was changed, in that example, to "4.22.161.118:289." It can be seen that "5" in the IP address section changed to "118" and "1444" in the port identifier section

changed to "289." Note that the recited claim language terminology "changing" is used in Appellant's specification (at least pg. 9, line 12) to describe this address change activity. Importantly, nothing else about the data packet has been changed. The included address in the data packet, therefore, remains included.

Appellant's claim language, in and of itself, confirms this notion. Consider that the first limitation of claim 1 initially calls for a "data packet including a first destination address." That recited data packet remains unperturbed, but for an address change, as exemplified above. There is no other change to that data packet. Therefore, if that data packet, as admitted in the Examiner's Answer, includes an address prior to the address change, it necessarily must include an address, albeit a changed address, after the address change. There is nothing in the claim to suggest that the data packet has been perturbed beyond the bare address change. Indeed, the first step is receiving the data packet including an address, the second step is changing the address, and the third step is transmitting that data packet with the changed address. Since the claim language itself specifies that the address is included in the data packet, and since there is no claim language which modifies that inclusion, it is clear that the claim language itself guarantees that an address stays included in, or with, the data packet, contrary to the Examiner's position.¹ To argue otherwise simply does not give the claim language its due respect. Therefore, contrary to the Examiner's principal argument, the claim language itself does constrain the transmitted data packet in Appellant's transmitting step to a data packet that includes an address.²

GELMAN DOES NOT INCLUDE DESTINATION ADDRESS WITH DATA PACKET DURING TRANSMISSION FROM FIRST TO SECOND ADDRESS TRANSLATOR

¹ See Examiner's Answer, pg. 16: "While appellant's specification may refer to the data packet being transmitted from the first address translator to the second address translator as including a second destination address, the language of the claim is such that the claim is not limited to just this interpretation."

² On page 17 of the Examiner's Answer, its argument relative to two destination points B and C, starting with "One should understand that a packet that is sent from point A to point B is a packet with a having a destination address of point B..." is not clear as written and, in any event, appears to be irrelevant. It is apparently intended to support the Examiner's principal argument noted above, which has been rebutted above.

In direct contrast with the language of Appellant's transmitting step, as discussed above, Gelman does not include its destination address with its data packet during its wireless transmission between its translators. Nevertheless, on page 19 of the Examiner's Answer, bottom, it says: "Gelman then discloses that this data packet with the second destination address is transmitted from the first/source gateway to the second/destination gateway (col 9, lines 21-31).⁶ This is plainly wrong and is the crux of the instant appeal.

This section says, in relevant part: "The source gateway application 62A receives the packets from the TCP layer 63A and forwards [forwards] them to the WLP layer 60A, which transmits them over the satellite link 44." This bare reference to the WLP process in transmitting packets from gateway 62A to gateway 62B does not disclose any detail of how this transmission is accomplished. There is extensive detailed discussion in Gelman which does explain how this transmission is accomplished, but the previous Examiner decided not to consider this information which, in her view, was merely "extra" information. Appellant remains perplexed over that decision, where relevant and detailed information in the reference may be intentionally ignored in favor of much less detailed snippets of information which are more easily mis-interpreted.

When read in context of the fully-available information in Gelman, col. 9, lines 21-31 really mean that the data packet "with" the second destination address is no longer "with" the second destination address when it is being transmitted from the first source gateway to the second destination gateway. Rather, during transmission between gateways, it becomes the data packet without the second destination address. The destination address is stripped-off from the data packet prior to transmission from WLP 60A to WLP 60B. The destination address is forwarded in a separate packet, as explained below.

The wireless portion of the communication from the first/source gateway to the second/destination gateway is actually from WLP 60A to WLP 60B (see: e.g., Gelman, col. 21, lines 18-19; col. 22, lines 25-26). This is how this wireless transmission is accomplished over a satellite link in Gelman which, regardless of any end result success in communicating from source 10 to destination 18, is the disclosure in Gelman. Gelman does not disclose any alternative transmission between its two

gateways and is thus constrained to its disclosed WLP wireless transmission. WLP causes its data packet to be transmitted WITHOUT DESTINATION ADDRESS as discussed in the Appeal Brief and augmented below. There is no rational way to argue around this deficiency in Gelman.

As set forth in Appellant's appeal brief, Gelman's TABLE 5, in columns 21/22 clearly shows the format of various message types. Local address information and remote address information are transmitted only in a CONNECT packet. This is not a data packet. The DATA packet is transmitted separately from, and subsequent to, the CONNECT packet as discussed in depth in Gelman, e.g., col. 22, line 25 through col. 23, line 55. The DATA packet includes only: message type, sending connection number, data length and data. No addresses are included. Therefore, Gelman cannot read on "transmitting the data packet with the second destination address from the first address translator to a second address translator via the network." (emphasis added) Gelman may transmit a data packet from a first translator to a second translator, but not with a "second destination address" much less any address.

It is irrelevant to the patentability issue in this appeal that after this WLP transmission of multiple packets associated with one data packet is accomplished that Gelman's destination address is somehow re-associated with Gelman's data packet, thereby allowing ultimate successful communication to its destination server 18. Although Gelman may successfully accomplish a source 10 to destination 18 communication, its operation still does not meet Appellant's claim language. Appellant disagrees with the Examiner's statement on page 20 "Whether Gelman's invention does this [getting the address from the first gateway to the second gateway] by using a routing table or some other means is unimportant." To the contrary, in order to use Gelman as a reference against Appellant's claims it is important that Gelman's data packet transmitted from its WLP 60A to its WLP 60B actually include addressing information with itself. But, it doesn't and that is a pivotal difference between Gelman and Appellant's claim 1.

Appellant is not suggesting that Gelman is completely irrelevant. After all, it does accomplish a similar communication from its source to its destination. But, Appellant is hereby strongly asserting that Gelman is fatally flawed as a reference with respect to the "transmitting" language of Appellant's claim 1.

Furthermore, Gelman's claim language reinforces its packet transmission activity in accordance with its TABLE 5 and highlights its deficiency as a 35 U.S.C. § 102(e) reference against Appellant's claims. Appellant brought this to the Examiner's attention in its amendment filed on June 6, 2006, (page 14 thereof), and again in the Appeal Brief (page 13 thereof). However, Appellant's argument based on Gelman's claim language appears to have been ignored. The Examiner's Answer does not acknowledge or address these Gelman-claim-based arguments.

- Gelman independent claim 19 says: "forwards the packets, without the packet addressing information, in the second protocol over the link." This is clear.
- Gelman independent claim 20 says: "source and destination addresses having been removed from the packets." This is also clear.
- Gelman independent claims 21 and 49 each says: "forwarding packets from the first gateway to the second gateway, and from the second gateway to the first gateway, using the second protocol, the packets having had addressing information removed." This is very clear.

Each of these Gelman claims supports Appellant's position. Appellant's argument based on these claims should not have been ignored because silence can be interpreted as acquiescence.

On page 21 of the Examiner's Answer, the current Examiner attempts to provide an explanation of the rationale behind the previous Examiner's action in this prosecution. The current Examiner "assumes" that the reason why the previous Examiner viewed Gelman's Table 5 as "merely extra information" is because the previous Examiner allegedly viewed a data packet "with" a second destination address as not including that address, much in the same way that the current Examiner views the "with" language. However, in reviewing the prosecution record concerning Gelman, it is clear to Appellant that the previous Examiner never mentioned, or even hinted, at that argument. Accordingly, there is no basis for that assumption.

In this connection, Appellant believes that there cannot be a fair assessment of patentability of Appellant's claim 1 with respect to Gelman if only vague snippets of Gelman information, e.g., Gelman, col. 9, lines 24-25 and col. 7, lines 25-28, which are cited against the transmitting step of claim 1

(Examiner's Answer, pgs. 3-4), are relied upon, instead of relying upon all available, relevant information in Gelman. Therefore, the rejection under 35 U.S.C. § 102(e) of claim 1 based on this vague and incomplete information in Gelman should be reversed, because clear and complete information is disclosed in Gelman which, if studied, would have eliminated Gelman as a prior art reference against claim 1 in the first place.

In sum, Appellant submits that Gelman does not include a destination address with its data packet during its wireless transmission from its first address translator SNAT 64A to its second address translator SNAT 64B via WLP 60A and WLP 60B (see Gelman, Fig. 2) and, therefore, does not read on Appellant's claim 1.

DICTIONARY DEFINITION OF "WITH" INCLUDES "INCLUSIVE OF"

Since the Examiner's argument that the word "with" does not connote "including" is raised for the first time in this prosecution in the Examiner's Answer, to which this Reply is responsive, Appellant believes that it would be fair to look to an English language dictionary for guidance in helping to resolve that question. Appellant does not believe that submission of an English language dictionary definition should be viewed as "new evidence" at any time, since the English language is being used in each prosecution, *ab initio*, and particularly here in response to a definitional argument made for the first time. Nevertheless, Appellant does not submit a copy of that definition herewith in deference to the rule against submitting new evidence with respect to Reply Briefs.

Notwithstanding the foregoing, Appellant is aware that in Merriam Webster's Collegiate Dictionary, tenth edition, page 1359 thereof, the word "with" is shown to have multiple meanings. One of them, #4b, is given as: "inclusive of." Therefore, "transmitting the data packet with the second destination address..." can certainly mean "transmitting the data packet inclusive of the second destination address..." Although Appellant's claim language itself guaranteed inclusion of the destination address in the data packet, as explained above, this dictionary-definition confirmation is just additional weight in favor of interpreting Appellant's transmitting step as including the second destination address with the transmitted data packet. In contrast, as shown above in repetitive detail, Gelman does not include any

address with its data packet during its wireless transmission between its two translators and therefore does not read on Appellant's claim 1.

All independent claims recite a similar limitation to the "transmitting" limitation of claim 1 discussed above. In fact, independent claims 21 and 26 essentially recite receiving in the second translator from the first translator a data packet "including" an address, instead of "with" an address, where the principal argument presented against claim 1 in the Examiner's Answer is completely irrelevant for these two claims. Therefore, all independent claims are allowable for reasons given above, and all dependent claims are allowable by reason of their dependencies from allowable base claims.

CONCLUSION

Appellant respectfully submits that this Reply Brief is directly responsive to issues raised in the Examiner's Answer. Appellant respectfully requests that the Honorable Board reverse the final rejection of the claims under appeal for the reasons presented above.

To the extent necessary and applicable, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 07-2347 and please credit any excess fees to such deposit account.

Respectfully submitted,

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